



U.S. Department of Justice

Federal Bureau of Investigation

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STATEMENT OF
LEE COLWELL
EXECUTIVE ASSISTANT DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
BEFORE THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
APRIL 25, 1985

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THE FBI APPRECIATES YOUR INVITATION TO PRESENT OUR VIEWS ON A MATTER WHICH WE CONSIDER TO BE OF UTMOST IMPORTANCE TO THE SUCCESSFUL ADMINISTRATION AND OPERATION OF THE FBI - THE NEED FOR SPECIAL RETIREMENT PROVISIONS FOR FEDERAL LAW ENFORCEMENT PERSONNEL WHO ARE COVERED BY SOCIAL SECURITY.

I BELIEVE THAT MY COMMENTS ON THIS SUBJECT WILL APPLY EQUALLY TO ALL FEDERAL LAW ENFORCEMENT OFFICERS, NOT ONLY THOSE WITHIN THE FBI, BUT ALSO THOSE WITHIN THE OTHER COMPONENTS OF THE DEPARTMENT OF JUSTICE AND ELSEWHERE WITHIN THE FEDERAL GOVERNMENT. THERE ARE OVER 27,400 LAW ENFORCEMENT OFFICERS IN THE DEPARTMENT, INCLUDING SPECIAL AGENTS OF THE FBI AND DRUG ENFORCEMENT ADMINISTRATION, DEPUTY UNITED STATES MARSHALS, AND CORRECTIONAL OFFICERS IN THE FEDERAL PRISON SYSTEM. THE MAJORITY OF MY REMARKS, HOWEVER, WILL ADDRESS THE NEED FOR SPECIAL PROVISIONS FOR AGENTS OF THE FBI.

THE FBI HAS INVESTIGATIVE JURISDICTION, BY STATUTE OR PRESIDENTIAL DIRECTIVE, IN SOME 185 GENERAL CATEGORIES COVERING THE BROAD SPECTRUM OF CRIMINAL, ORGANIZED CRIME, CIVIL RIGHTS, WHITE COLLAR CRIME, FOREIGN COUNTERINTELLIGENCE, DRUG ENFORCEMENT, AND SENSITIVE BACKGROUND INVESTIGATIONS. TO CARRY OUT OUR MISSION AND TO PERFORM SUCH DEMANDING DUTIES, THE FBI HAS A CAREFULLY SELECTED, HIGHLY TRAINED CORPS OF OVER 8,800 SPECIAL AGENTS.

IN CONSIDERING WHETHER SPECIAL TREATMENT OR RETIREMENT BENEFITS SHOULD BE AFFORDED FEDERAL LAW ENFORCEMENT OFFICERS IN THE DEVELOPMENT OF A SUPPLEMENTAL RETIREMENT SYSTEM, WE BELIEVE IT

IS IMPORTANT TO BRIEFLY REVIEW THE SPECIAL RETIREMENT PROVISIONS THAT FEDERAL LAW ENFORCEMENT OFFICERS, INCLUDING FBI AGENTS, ENJOY TODAY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM AND THE LEGISLATIVE INTENT OF THE LAWS WHICH BROUGHT ABOUT THOSE PROVISIONS.

FBI AGENTS WERE THE FIRST GROUP OF FEDERAL LAW ENFORCEMENT OFFICERS TO BE GRANTED SPECIAL RETIREMENT BENEFITS BY CONGRESS. IN 1947, CONGRESS REALIZED THAT IF THE FBI WAS TO BECOME A CAREER SERVICE, SPECIAL RETIREMENT BENEFITS WERE NECESSARY TO OFFSET THE LURE OF HIGHER SALARIES AND MORE GENEROUS RETIREMENT BENEFITS AVAILABLE IN THE PRIVATE SECTOR. CONGRESS ALSO RECOGNIZED THE NEED TO ENCOURAGE THE DEVELOPMENT OF A YOUNG AND VIGOROUS SPECIAL AGENT WORK FORCE CAPABLE OF PERFORMING PHYSICALLY ARDUOUS TASKS UNDER STRESSFUL CONDITIONS. ACCORDINGLY, CONGRESS PASSED LEGISLATION ESTABLISHING A RETIREMENT FORMULA AIMED AT MAKING RETIREMENT AS EARLY AS AGE 50 WITH 20 YEARS OF SERVICE ECONOMICALLY FEASIBLE. IT WAS INTENDED THAT OLDER AGENTS WOULD BE ENCOURAGED TO RETIRE AT AGE 50, OR SOON AFTER, WHEN THE RIGORS AND DEMANDS OF THE SERVICE COULD BE BETTER MET BY YOUNGER AND MORE VIGOROUS EMPLOYEES. SUBSEQUENT LEGISLATION EXTENDED THESE SPECIAL RETIREMENT BENEFITS TO OTHER FEDERAL LAW ENFORCEMENT OFFICERS.

THE LAW ENFORCEMENT RETIREMENT BENEFITS WERE NOT AGAIN SIGNIFICANTLY CHANGED UNTIL 1974 WHEN CONGRESS PASSED PUBLIC LAW 93-350. THIS LAW PROVIDED GREATER ANNUITIES AND, STARTING IN 1978, MADE RETIREMENT MANDATORY AT AGE 55, OR UPON COMPLETING 20 YEARS OF SERVICE, WHICHEVER IS LATER. IN PASSING THIS LEGISLATION, CONGRESS SOUGHT TO STEM THE RISING AVERAGE AGES FOR BOTH ACTIVE

AND RETIRING LAW ENFORCEMENT OFFICERS. BY RETAINING THE MINIMUM RETIREMENT AGE OF 50, AND SETTING A MAXIMUM AGE LIMIT OF 55, CONGRESSIONAL INTENT CLEARLY WAS TO MAKE FEDERAL LAW ENFORCEMENT A YOUNG PEOPLES' CAREER.

CONGRESS ALSO RECOGNIZED THAT WITH THE IMPROVEMENT OF RETIREMENT BENEFITS FOR THE GENERAL CIVIL SERVICE POPULATION, THE DIFFERENCE BETWEEN THE REGULAR RETIREMENT PLAN AND THE LAW ENFORCEMENT RETIREMENT PLAN HAD MARKEDLY DIMINISHED. THEREFORE, THE 1974 LEGISLATION PROVIDED TWO VERY IMPORTANT RETIREMENT BENEFITS NOT AVAILABLE TO OTHER RETIRING CIVIL SERVANTS: A MORE GENEROUS ANNUITY COMPUTATION FORMULA, AND INCLUSION OF OVERTIME PAY IN THE HIGH-THREE-YEARS AVERAGE SALARY COMPUTATION. WITH THESE ADDED BENEFITS, WE HAVE BEEN ABLE TO PROVIDE A FINANCIALLY ADEQUATE RETIREMENT ANNUITY FOR AGENTS WHO ARE REQUIRED BY LAW TO RETIRE AT A RELATIVELY EARLY AGE.

PRESENTLY, AS A RESULT OF THE SPECIAL LAW ENFORCEMENT RETIREMENT BENEFITS, OUR AGENTS ARE RETIRING AT AN AVERAGE AGE OF 52½ YEARS, WITH AN AVERAGE LENGTH OF SERVICE OF ABOUT 24 YEARS. IT IS INTERESTING TO NOTE THAT OF THE 810 AGENTS WHO HAVE RETIRED SINCE 1980, ONLY 11½ PERCENT OF THE RETIRING AGENTS WERE MANDATORILY RETIRED. OUR AGENTS CAN KNOWINGLY PLAN FOR THEIR EVENTUAL RETIREMENT. GENERALLY, THEY NEITHER LEAVE AT THE EARLIEST ALLOWABLE AGE NOR STAY UNTIL THE LAW REQUIRES THEM TO RETIRE. CONGRESS' OBJECTIVE; TO DEVELOP A YOUNG AND VIGOROUS AGENT COMPLEMENT, HAS BEEN ACHIEVED THROUGH THE LAW ENFORCEMENT

RETIREMENT PROVISIONS AVAILABLE IN THE CIVIL SERVICE RETIREMENT SYSTEM.

THE SPECIAL RETIREMENT BENEFITS OUR AGENTS ENJOY HAVE HISTORICALLY PROVEN TO BE A VALUABLE INDUCEMENT IN THE RECRUITMENT OF HIGHLY QUALIFIED APPLICANTS. THE HIGH STANDARDS WE SET IN TERMS OF MATURITY, EDUCATION, AND WORK EXPERIENCE, OFTEN MEAN THAT THE NEWLY APPOINTED FBI AGENT IS SOMEWHAT OLDER THAN OTHER EMPLOYEES EMBARKING ON A NEW CAREER IN THE FEDERAL SERVICE. YET TO PROMOTE THE EFFICIENCY OF THE BUREAU IN ACCOMPLISHING ITS OBJECTIVES, THE AGENT'S CAREER MUST END AT AN AGE WHEN OTHER PROFESSIONALS ARE JUST REACHING THEIR CAREER HEIGHTS AND CAN LOOK FORWARD TO BENEFITING FROM THEIR MANY YEARS OF PROFESSIONAL EXPERIENCE. THE PROVISIONS WERE DESIGNED TO COMPENSATE THE AGENTS AND OTHER COVERED EMPLOYEES FOR LEGISLATIVELY SHORTENED CAREERS. SUCH EMPLOYEES DO NOT HAVE THE OPTION OF WORKING LONGER TO INCREASE THEIR ANNUITIES. THEREFORE, AGENTS SHOULD BE AFFORDED A COMPARABLE FORMULA FOR ACCRUING RETIREMENT CREDITS UNDER THE SUPPLEMENTAL RETIREMENT SYSTEM. IF WE ARE TO BE SUCCESSFUL IN OUR RECRUITMENT EFFORTS, OUR APPLICANTS MUST BE ASSURED THAT A FINANCIALLY ADEQUATE RETIREMENT ANNUITY WILL BE THEIRS WHEN THEY RETIRE FROM THE AGENT RANKS.

ATTRACTIVE RETIREMENT BENEFITS ARE UNDOUBTEDLY OF MAJOR IMPORTANCE NOT ONLY IN RECRUITING TOP QUALITY APPLICANTS, BUT ALSO IN RETAINING AGENTS DURING THEIR OPTIMUM PRODUCTION YEARS. WHATEVER THE REASONS MAY BE THAT PROMPT AN INDIVIDUAL TO PURSUE A LAW ENFORCEMENT CAREER, WITH ALL OF ITS UNIQUE AND

SOMETIMES UNATTRACTIVE DEMANDS, A MAJOR FACTOR IS CERTAINLY A FAVORABLE RETIREMENT PLAN. A SURVEY CONDUCTED BY THE FBI TO ELICIT THE ATTITUDES OF AGENTS TOWARD RETIREMENT FOUND THAT THE RETIREMENT PLAN WAS A KEY FACTOR IN AGENTS ACCEPTING AN APPOINTMENT AND THEN REMAINING IN A POSITION WHICH MAKES EXTRAORDINARY DEMANDS ON BOTH THE AGENT AND HIS/HER FAMILY. MANY AGENTS RESPONDED THAT THEY MOST LIKELY WOULD NOT HAVE ACCEPTED SUCH A DEMANDING POSITION WITHOUT SOME FORM OF ADDITIONAL COMPENSATION, SUCH AS THE RETIREMENT BENEFITS PRESENTLY AVAILABLE UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

IT IS OUR FIRM CONVICTION THAT THE FACTORS WHICH PROMPTED EARLIER CONGRESSES TO PROVIDE SPECIAL RETIREMENT BENEFITS FOR AGENTS AND OTHER FEDERAL LAW ENFORCEMENT OFFICERS, ARE AS VALID TODAY AS EVER. THESE SAME FACTORS SHOULD BE CONSIDERED BY THIS COMMITTEE IN THE DEVELOPMENT OF A SUPPLEMENTAL RETIREMENT SYSTEM FOR AGENTS WHO ARE COVERED BY SOCIAL SECURITY. THE SPECIAL RETIREMENT PROVISIONS AVAILABLE TO AGENTS IN THE PAST GREATLY CONTRIBUTED TO MAKING THE FBI THE CAREER SERVICE IT IS TODAY. PREFERENTIAL RETIREMENT BENEFITS HAVE BEEN AFFORDED AGENTS, NOT PRIMARILY TO REWARD THESE EMPLOYEES FOR PERFORMING DEMANDING SERVICES, BUT TO SATISFY THE GOVERNMENT'S NEED FOR THE TYPE OF WORK FORCE THAT CAN EFFECTIVELY PERFORM AND DELIVER LAW ENFORCEMENT SERVICES - A WORK FORCE THAT IS YOUNG, AGGRESSIVE, AND ABLE TO MEET THE FORMIDABLE CHALLENGES THAT AGENTS FACE DAILY. BOTH THE WELFARE OF THE INDIVIDUAL EMPLOYEE AND THE SAFETY OF THE PUBLIC DEPEND UPON AGENTS BEING ABLE TO EFFECTIVELY PERFORM

THEIR DUTIES, WHICH OFTEN INCLUDE DECISIONS AFFECTING HUMAN LIFE AND PERSONAL PROPERTY. THE WORK-RELATED HAZARDS ARE REAL. THE RIGORS OF A HOSTAGE NEGOTIATION OVER MANY STRESSFUL HOURS OR LONG HOURS OF SURVEILLANCE IN OFTEN HOSTILE ENVIRONMENTS REQUIRE AGENTS TO BE BOTH PHYSICALLY AND PSYCHOLOGICALLY ABLE TO MEET THE CHALLENGES IN THESE AND MANY OTHER INTENSE SITUATIONS. IN THE PAST THREE YEARS, 92 AGENTS WERE ASSAULTED IN THE PERFORMANCE OF THEIR DUTY: 20 AGENTS SUFFERED SERIOUS INJURIES; AND 5 AGENTS WERE KILLED IN THE LINE-OF-DUTY. AGENTS MUST RETIRE BEFORE THEIR VIGOR AND PHYSICAL ABILITY BEGIN TO EBB.

THE CURRENT MINIMUM RETIREMENT ELIGIBILITY AGE OF 50, AFTER 20 YEARS OF INVESTIGATIVE SERVICE, WITH MANDATORY RETIREMENT AT AGE 55, ARE PROVISIONS WHICH MUST BE CONTINUED IN ANY SUPPLEMENTAL RETIREMENT SYSTEM FOR LAW ENFORCEMENT OFFICERS. WE CONSIDER THESE PROVISIONS VITAL TO THE CONTINUED PROFICIENCY OF THE FBI IN CARRYING OUT ITS MISSION. RETIREMENT BENEFITS MUST BE SUCH THAT AGENTS ARE ENCOURAGED TO REMAIN IN THE SERVICE LONG ENOUGH TO FULFILL THEIR OPTIMUM POTENTIAL, BUT YET OFFER THE OPPORTUNITY TO RETIRE BEFORE THEY LOSE THE PHYSICAL AND PSYCHOLOGICAL QUALITIES DEMANDED BY LAW ENFORCEMENT WORK.

IF THE GOVERNMENT DOES NOT PROVIDE EARLY RETIREMENT BENEFITS FOR OUR AGENTS COVERED BY SOCIAL SECURITY, THE BUREAU COULD LOSE MANY HIGHLY QUALIFIED APPLICANTS TO EITHER STATE AND LOCAL LAW ENFORCEMENT AGENCIES, WHO OFFER EARLY RETIREMENT; OR TO OTHER FEDERAL AGENCIES AND THE PRIVATE SECTOR, WHO CAN OFFER IDENTICAL RETIREMENT BENEFITS FOR A JOB WITH FEWER

PERSONAL RISKS, LESS PRESSURE, AND FEWER INCONVENIENCES.

THEIR ENTITLEMENT TO A SOCIAL SECURITY PENSION MUST CERTAINLY BE CONSIDERED IN EVALUATING THE ADEQUACY OF AN AGENT'S PROJECTED RETIREMENT ANNUITY UNDER THE SUPPLEMENTAL PLAN. HOWEVER, SINCE INDIVIDUALS CANNOT DRAW SOCIAL SECURITY BENEFITS NORMALLY UNTIL AGE 62, THE SUPPLEMENTAL PLAN SHOULD OFFER AGENTS SOME FORM OF INTERIM BENEFIT DURING THOSE YEARS AFTER RETIREMENT WHEN THEY ARE NOT YET ELIGIBLE FOR SOCIAL SECURITY.

THE SUPPLEMENTAL PLAN SHOULD BE STRUCTURED SUCH THAT AGENTS ARE ENCOURAGED TO REMAIN IN THE SERVICE SUFFICIENTLY LONG TO FULFILL THEIR OPTIMUM POTENTIAL, BUT YET PROVIDED THE OPPORTUNITY TO RETIRE BEFORE THEY LOSE THE QUALITIES DEMANDED BY LAW ENFORCEMENT WORK SUCH AS VIGOR AND PRIME PHYSICAL CONDITION. IN THE CIVIL SERVICE RETIREMENT SYSTEM, AGENTS ARE NOT ENTITLED TO RECEIVE THE BENEFIT OF THE MORE GENEROUS ANNUITY COMPUTATION FORMULA UNLESS THEY HAVE SERVED A MINIMUM OF 20 YEARS IN A COVERED POSITION. SIMILARLY, ANY SPECIAL BENEFITS FOR AGENTS IN A SUPPLEMENTAL PLAN SHOULD ONLY ACCRUE AFTER AGENTS HAVE SERVED IN A COVERED POSITION FOR A MINIMUM PERIOD OF TIME. A REQUIRED PERIOD OF SERVICE IS NEEDED TO PROVIDE AN INCENTIVE FOR OUR AGENTS TO STAY IN THE FBI, TO PROMOTE A CAREER SERVICE, AND TO PERMIT THE GOVERNMENT TO REAP A FAIR RETURN ON ITS CONSIDERABLE INVESTMENT IN THE SPECIALIZED TRAINING AFFORDED AGENTS. WE SUPPORT A 20 YEAR MINIMUM PERIOD OF SERVICE REQUIREMENT TO ESTABLISH ELIGIBILITY FOR SPECIAL RETIREMENT BENEFITS.

IN CONCLUSION, THE FBI STRONGLY SUPPORTS THE CONTINUATION

OF SPECIAL RETIREMENT BENEFITS FOR LAW ENFORCEMENT PERSONNEL. THE CURRENT AGE AND SERVICE REQUIREMENTS, INCLUDING MANDATORY RETIREMENT, SHOULD BE RETAINED. SINCE AGENTS COVERED BY SOCIAL SECURITY WILL BE ELIGIBLE FOR THESE BENEFITS AT AGE 62, THIS SHOULD BE TAKEN INTO CONSIDERATION IN FORMULATING AN EARLY RETIREMENT ANNUITY.

THIS CONCLUDES MY PREPARED REMARKS. I WILL BE PLEASED TO ANSWER ANY QUESTIONS THE COMMITTEE MAY HAVE.

AttachmentRETIREMENT OF LAW ENFORCEMENT OFFICERS IN THE
DEPARTMENT OF JUSTICENumber of Law Enforcement Officers Eligible for Retirement Under
Public Law 93-350

FBI	8,816	INS	4,531
DEA	2,268	USMS	1,505
BOP/FPI	10,305	Total	27,425

Number of Law Enforcement Officers Retiring/Year*

FBI	97	INS	35
DEA	25	USMS	11
BOP/FPI	140	Total	310 (Including 2 fr. OBDs)

Average Age of Law Enforcement Officers Retiring in Typical Year*

FBI	52.5	INS	53
DEA	52	USMS	**
BOP/FPI	54	Dept-wide	53

Average Length of Service of Law Enforcement Officers Retiring in Typical Year*

FBI	24.2	INS	28
DEA	27	USMS	21
BOP/FPI	24	Dept-wide	25

General

68% of all the Department's Law Enforcement Officers are in other
bureaus (other than the FBI)

68.7% of those who retire are from bureaus other than the FBI

* Year is 1982.

** USMS statistics are unavailable.

STATEMENT OF CHARLES E. WEITHONER, ASSOCIATE ADMINISTRATOR
FOR HUMAN RESOURCE MANAGEMENT, BEFORE THE HOUSE POST
OFFICE AND CIVIL SERVICE COMMITTEE, CONCERNING EARLY
RETIREMENT PROVISIONS UNDER A SUPPLEMENTAL RETIREMENT
PROGRAM. APRIL 25, 1985.

Mr. Chairman and Members of the Committee:

I welcome the opportunity to appear before you today to discuss the views of the Federal Aviation Administration concerning the continued need for early retirement for our air traffic controller workforce.

As the Committee is aware, early retirement provisions for air traffic controllers were first enacted in 1972 as part of Public Law 92-297. The rationale for enacting such retirement legislation was simple: air traffic control was considered to be a young person's occupation. That fundamental conclusion, documented by experts at the time, remains every bit as true today.

When the FAA proposed that the Congress establish an early retirement program for controllers, it did so based upon data which had been gathered over a period of time concerning our controller workforce. We developed a considerable body of evidence which demonstrated a distinct correlation between the age of tower and center controllers and their ability to control traffic effectively. This correlation is evident from

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the outset of controller training at the FAA Academy, through field training and the later stages of controllers' careers. Studies consistently showed chronological age to be inversely related to scores on numerous aptitude tests, various indices of Academy training progress, and ratings of journeyman-level job performance.

The need to rapidly process information, make mental judgments in time-critical situations, and to learn and apply new procedures, techniques, and information concerning complex subject matter in a demanding environment are all basic elements of a controller's job. It has been shown repeatedly, however, that, as a natural part of the aging process, these and related kinds of skills begin to decline. Though different skills may decline at different rates for different people, there is no question but that it will occur for all individuals at some time during the aging process. Accordingly, the evidence clearly pointed to the conclusion that air traffic control work was best done by young people. Therefore, an early retirement program, coupled with a maximum retention age, was established in law as the appropriate means to provide a youthful workforce.

One problem frequently encountered before the enactment of early retirement provisions for controllers was that it was difficult--both for managers and for employees--to decide what

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course of action to take when a controller's skills were beginning to decline somewhat, though still marginally acceptable. The availability of early retirement today provides a needed and valuable alternative for such individuals who typically recognize themselves that their skills have begun to decline.

In the 13 years since the Congress recognized the need for enactment of early retirement provisions for air traffic controllers, we have had an ongoing opportunity to monitor the effectiveness of these provisions. This operational experience confirms for us that these provisions continue to be necessary to assist us in maintaining a vigorous and youthful controller workforce that can best provide safe service to the American travelling public.

Let me elaborate on our experience with the early retirement provisions for controllers. From 1969 through 1971, just prior to enactment of early retirement legislation for controllers, about 400 controllers retired. Seventy percent of these were disability retirements; only 30 percent were by those who met normal requirements for retirement.

From 1972 through 1979 medical disability retirements began to decrease with a corresponding increase in early retirements. During the 5 years from 1980 through 1984, medical retirements

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dropped to 18 percent and early retirements increased to 59 percent of total retirements of our controllers and first-line supervisors. In the last 2 years, only 10 percent have been medical retirements and 73 percent were early retirements.

This experience clearly shows, in our view, that continuation of special retirement provisions provided by Public Law 92-297 is essential to the future operation of the air traffic control system. The early retirement program has become the principal and, we believe, proper avenue for our controllers and our first-line supervisors to leave the air traffic control system, if necessary, when they are not eligible for normal retirement. We believe this promotes system safety by allowing controllers whose skills have diminished with age to leave the system.

Before closing, Mr. Chairman, let add that this need is fully recognized within the Administration and that any Administration proposal for a supplementary retirement system will provide for a continued early retirement program for controllers. We also believe that benefits under such a program must be sufficient not only to treat such employees equitably for their service, but also to preclude the problems of an aging work force we experienced before 1972. In that respect, we believe that an early retirement program needs to compensate employees for the fact that Social Security

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benefits will not begin until age 62. Specifically, it is our conviction that the present provisions of Public Law 92-297 regarding early retirement, that is, eligibility at age 50 with 20 years of service or with 25 years of service at any age, need to be incorporated in any new retirement system for federal employees.

In concluding, Mr. Chairman, I would like to note that we have 81 firefighters who work at National and Dulles Airports. In November 1977, I testified before the Subcommittee on Compensation and Employee Benefits supporting continued early retirement for FAA firefighters. Although you have not asked us to address the need for early retirement for firefighters today, I would like to indicate that we believe there continues to be a valid need to provide for early retirement for them as well.

Mr. Chairman, that completes my prepared statement. I would be pleased to respond to any questions you may have at this time.